

REMARKS/ARGUMENTS

This Reply is submitted in response to the Office Action mailed April 12, 2007. The deadline for responding has been extended to September 12, 2007 by a request for a two month extension of time made herewith.

**I. Introduction**

Claims 1-14 are now pending. In the Office Action the Examiner rejected claims 1-7 and 9-13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2003/0195861 to McClure et al.

(hereinafter "the McClure et al. publication") in view of U.S. Patent Publication No. 2003/0115321 to Edmison et al. (hereinafter "the Edmison et al. publication"). In addition the Examiner rejected claims 8 and 14 under 35 U.S.C. §103(a) as being unpatentable over the McClure et al. publication in view of the Edmison et al. publication, and further in view of U.S. Patent Publication No. 2004/0028035 to Read (hereinafter "the Read publication").

As will be discussed below, none of the pending claims are rendered obvious by the applied references.

**II. The Rejections under §103**

Claim 1 discloses (emphasis added):

*A method of testing a network firewall, comprising:*

*transmitting a communications session initiation signal from said signal source using an IP address corresponding to said signal source to establish a communications session to be conducted through said firewall;*

*transmitting test signals from said signal*

source, following initiation of said communications session and prior to termination of said initiated communications session, at a range of ports in a first side of said firewall through which media signals may be transmitted when said ports are open, said test signals including said IP address;

**monitoring a second side of said firewall to detect any transmitted test signals that pass through said firewall; and**

**identifying any open ports that are not associated with said established communications session, which passed at least one of said transmitted test signals, as erroneously open ports.**

The Examiner acknowledges on p. 3 of the Office Action that:

"McClure et al. does not teach ...a second test device located on a trusted side of said firewall, the second test device including: means for monitoring a second side of said firewall to detect any transmitted test signals that pass through said firewall and an analysis module for identifying any open ports that are not associated with an established communications session, which passed at least one of said transmitted test signals, as erroneously open ports."

The Examiner goes on to state that (emphasis added):

"Edmison et al. teaches ... a second test device located on a trusted side of **said firewall**, the second test device including (fig. 1, ref. num 10 and 20): means for monitoring a second side of **said firewall** to detect any transmitted test signals that pass through **said firewall** (paragraph 0040) and an analysis module for identifying any open ports that are not associated with an established communications session, which passed at least one of said transmitted test signals, as erroneously open ports (paragraph 0010)."

First, there is no mention of a **firewall** in the cited references of the Edmison et al. publication. Fig. 1 shows a "first network element" 10; and a "second network element 20", a "user card 31", and a "user destination 29" at the distant end of the network being tested. Fig. 2 shows a "network element" 10, with "ingress user port(s)" 52 and 54, and "egress user port(s)" 49 and 56. There is no mention of "firewalls". Neither paragraph 10 nor paragraph 40 mentions a "firewall".

The Edmison et al. publication does disclose (abstract):

"a method which involves inserting probe packets on a per service basis for transmission on a respective round trip; and for each service using the probe packets to calculate packet latency for probe packets which is representative of packet latency for all packets transmitted for the service. In some embodiments, data plane time stamps are used to accurately time probe latency. The invention also provides a method which involves inserting probe packets on a per service basis for transmission on a respective destination network element; and at the destination network element for a given service using the probe packets to calculate one way packet loss for the service".

As can be seen, the Edmison et al. publication teaches sending probe packets to a destination and back to the origination, while monitoring to see how long this process takes, and whether any packets are dropped. There is no suggestion of testing a **firewall**.

Second, there is no teaching or suggestion in the Edmison et al. publication of "**identifying any open ports that are not associated with said established**

**communications session".** The Edmison et al. publication discloses, at paragraph 0040:

"Each packet received at an ingress user port belonging to a given service is typically given a certain treatment, and forwarded to an appropriate egress network port. A count of these packets is maintained for each service is maintained for each service."

It can be seen that ports are selected for use as ingress and egress ports for probe packets, and there is no teaching or suggestion of looking for or identifying open ports of a firewall that are not associated with the testing probe transmissions and receptions ("established communications session").

Further, there is no teaching or suggestion in the Edmison et al. publication of identifying any ports "**as erroneously open ports**". There is no mention of "erroneously open ports" in the Edmison et al. publication, to say nothing of "identifying" them.

Neither the McClure et al. publication nor the Edmison et al. publication teach or suggest the features of claim 1 of:

**identifying any open ports that are not associated with said established communications session, which passed at least one of said transmitted test signals, as erroneously open ports**

Therefore, no combination of the McClure et al. publication and the Edmison et al. publication teach or suggest the above feature of claim 1.

**For at least these reasons, claim 1 is patentable over the cited references.**

Claims 2-8, for at least the reason of being dependent on allowable claim 1, are therefore patentable over the cited references.

Claim 9 contains the following feature:

*"an analysis module for identifying any open ports that are not associated with an established communications session, which passed at least one of said transmitted test signals, as erroneously open ports"*

For at least the reasons stated above with regard to claim 1, claim 9 is patentable over the cited references.

Claims 10-14, for at least the reason of being dependent on allowable claim 9, are therefore patentable over the cited references.

It should be noted that the Read publication, although not cited against either of independent claims 1 or 9, does not correct any of the deficiencies noted above with regard to the McClure et al. publication and the Edmison et al. publication.

### III. Conclusion

In view of the foregoing remarks, it is respectfully submitted that the pending claims are in condition for allowance. Accordingly, it is requested that the Examiner pass this application to issue.

If there are any outstanding issues which need to be resolved to place the application in condition for allowance the Examiner is requested to call (732-542-

9070) and schedule an interview with Applicant's undersigned representative. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136 is hereby made and any required fee in regard to the extension or this amendment is authorized to be charged to the deposit account of Straub & Pokotylo, deposit account number 50-1049.

None of the statements or discussion made herein are intended to be an admission that any of the applied references are prior art to the present application and Applicants preserve the right to establish that one or more of the applied references are not prior art.

Respectfully submitted,

August 14, 2007

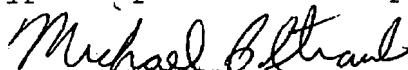
  
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August 14, 2007

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